



United States Mission to the OSCE

Statement on Rule of Law in Criminal Justice Systems: Closing Session of the Human Dimension Seminar

As delivered by Mr. Frank Gaffney,
U.S. State Department, Office of the Legal Advisor,
to the OSCE Human Dimension Seminar, Warsaw
May 12, 2006

Thank you, Mr. Moderator.

I would like to thank the Belgian Chairmanship for making rule of law in criminal justice systems a priority this year. I also thank the ODIHR for organizing this very productive meeting.

Criminal justice systems have five pillars: the judiciary, prosecutors, defense lawyers, police, and the penal system. Criminal justice reform efforts must recognize the importance of and interrelationship between all of these pillars.

To ensure the rule of law, each pillar of the system requires independence from political interference. At the same time, a system of checks and balances on and among the pillars must be ensured.

Criminal justice systems provide for security and stability, and they must also be designed to serve the needs of individual citizens, in particular by protecting human rights and fundamental freedoms.

There are many different types of criminal justice systems in the OSCE region, and each type has its strengths and its potential weaknesses. There is no one "correct" model. Many different types of systems are capable of meeting States' international obligations and OSCE commitments. We have heard a great deal of compelling testimony this week about the contrast between the protections already provided in law and those same protections denied in practice. This is why every system needs appropriate mechanisms for accountability and transparency to ensure the full implementation of the law. This is vital to promote the ability of the criminal justice process to provide justice in fact, not just in theory.

Therefore, as a corollary to the recommendations we have discussed this week to strengthen law and practice, the United States stresses the importance of systematic guarantees of freedom of expression, so that citizens can make their needs known and also so that they can cast light on shortcomings in the criminal justice system – for example on the need for better protection of victims of domestic violence, which we heard about in several sessions of this meeting. (I thank those who spoke to us so poignantly about this issue and indeed all NGOs who came here to make their needs known.) Citizens also need the right and the ability to hold authorities accountable for violations of human rights when they occur.

The U.S. is also convinced that objective outside monitoring of criminal justice processes can help ensure transparency and accountability. Therefore, we recommend that ODIHR's rule of law unit continue its focus on trial monitoring, including by designating a focal point on trial monitoring within the Rule of Law Unit to help coordinate the related work being done by field presences.

Finally, we strongly recommend that the OSCE continue using a comprehensive approach to criminal justice reform, including the SPMU's work on police reform and community policing and ODIHR's work to develop the capacity of defense lawyers and to train judges, who are the final stop in ensuring that laws are upheld and justice is done.

Thank you, Mr. Moderator.